

LYLE S. HOSODA & ASSOCIATES, LLC
Lyle S. Hosoda 3964-0
Raina P.B. Gushiken 7329-0
345 Queen Street, Suite 804
Honolulu, Hawai'i 96813
Telephone: (808) 524-3700
Facsimile: (808) 524-3838
E-mail: lsh@hosodalaw.com

Counsel for Defendants

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

WAYNE BERRY,

Plaintiff,

vs.

DEUTSCHE BANK TRUST
COMPANY AMERICAS (FKA
BANKERS TRUST COMPANY) AND
JP MORGAN CHASE BANK IN THEIR
SEPARATE CAPACITIES AND AS
AGENTS FOR THE PRE AND POST-
PETITION LENDERS OF FLEMING
COMPANIES, INC.; DOES 1 TO 200,

Defendants.

) CASE NO. CV 07-00172 SOM-LEK
)

) The Hon. Judge Susan Oki Mollway
)

) **DECLARATION OF ALBERT
FISCHETTI IN SUPPORT OF
DEFENDANTS' MOTION TO
CHANGE VENUE**
)

DECLARATION OF ALBERT FISCHETTI

I, Albert Fischetti, declare as follows:

1. I am (and at all relevant times was) a senior credit officer at Deutsche Bank Trust Company Americas ("Deutsche Bank"), one of the Defendants in this action, and am duly authorized to make this declaration in support of the motion by Defendants to change venue in the above-captioned case. I know the following to be true through my

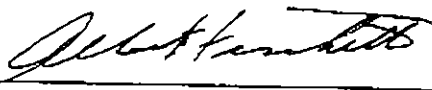
DECLARATION OF ALBERT FISCHETTI

association with Deutsche Bank, and if requested could and would competently testify as such.

2. My residence address is 159 Prospect Road, Monroe, New York. I have resided in Monroe, New York for twenty-two (22) years.
3. Deutsche Bank is a bank organized under the laws of the state of New York with its headquarters located at 60 Wall Street, New York, New York.
4. My office is located at 60 Wall Street, New York, New York.
5. I am the individual who was employed at Deutsche Bank with the most direct involvement and knowledge relative to the Fleming Company, and as such I expect that I would be the principal witness on behalf of Deutsche Bank in this case.
6. It would be extremely inconvenient and costly for me to have to fly to Hawai'i to testify in connection with this matter.
7. There are (or were) approximately three (3) other individuals at Deutsche Bank who worked with me in connection with the Fleming account. The entire group worked out of Deutsche Bank's New York office.
8. Likewise, all of Deutsche Bank's records relating to the Fleming account are located in the New York office.

I declare under penalty of perjury that the foregoing is true to the best of my belief.

Dated: New York, New York
August 10, 2007



Albert Fischetti

DECLARATION OF ALBERT FISCHETTI